

The regular monthly meeting of the City Planning Board was held on December 16, 2009 in the City Council Chambers in the City Hall Annex at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Swope, Foss, Gross, Hicks, and Shurtleff (representing the City Council). Mr. Woodward, Mr. Henninger, Ms. Hebert and Ms. Osgood of the City Planning Division were also present, as was Laura Aibel, the City's Associate Engineer.

At 7:01 PM a quorum was present and the Chair called the meeting to order.

APPLICATIONS

Minor Site Plan and Conditional Use Permit Applications

1. Application of **26 Centre Street LLC and Marian N. Sagona** for approval of a site plan of property located at **26, 26 ½, & 28 Centre Street** in the Civic Performance (CVP) District. Along with this application are requests for Conditional Use Permits pursuant to Section 28-7-11(a), Off-site Parking, and Section 28-7-11(f), Driveway Separation Alternatives, of the Zoning Ordinance. (**#2009-18**)

Determination of Completeness

Mr. Woodward explained this proposal to renovate the existing mixed use building at 26 Centre Street for professional office space. He explained that because this is now a joint application of 26 Centre Street LLC and Marian N. Sagona, a new consideration of the completeness and public hearing is required.

He reported the application was complete and ready for public hearing.

Mr. Gross moved that the Planning Board determine this application to be complete and open the public hearing. Ms. Foss seconded. Motion carried.

Public Hearing

Mr. Woodward explained this proposal to renovate the existing mixed use building at 26 Centre Street for professional office space. There is an existing residential structure at 26 ½ Centre Street which, together with an adjacent garage, is proposed to be removed. Marian N. Sagona, owner of 28 Centre Street, has joined with Twenty-Six Centre Street, LLC in proposing the construction of a parking lot on the premises at 26 and 28 Centre Street with fifteen spaces to serve the renovated office building at 26 Centre Street, and nine spaces for the use of 28 Centre Street. While the property at 26 Centre Street does include a right to travel on Cedar Court, which is a private way off North State Street, the narrowness of that passway has caused the applicant to focus on access and egress to and from Centre Street.

He reported that an application for a Conditional Use Permit pursuant to Section 28-7-11(f), Driveway Separation Alternatives, of the City's Zoning Ordinance was submitted

in recognition of the collector street status of Centre Street and the higher standards for driveway separation for collector streets. An application for a Conditional Use Permit pursuant to Section 28-7-11(a), Off-site Parking, of the City's Zoning Ordinance was subsequently submitted to allow Marian N. Sagona to provide up to four parking spaces for 28 Centre Street on the premises at 26 Centre Street.

He reported that the Conditional Use Permit application pursuant to Section 28-7-11(f), Driveway Separation Alternatives, of the Concord Zoning Ordinance has been filed to allow for two driveways where only one would be permitted on a lot with less than 350 feet of frontage on a collector street. The CUP application also requests permission to have less than a 200-foot separation between the driveways and the nearest street intersections (North State and Green Streets), and less than a 200-foot separation from driveways on the same lot and on adjacent parcels (28 Centre Street and 65-69 North State Street). This circulation system would be shared among the three adjacent parcels at 26 and 28 Centre Street as well as 65-69 North State Street. Each curb cut is designed to be 20 feet in width which will accommodate a right turn in or out from and to the nearest travel lane in this section of Centre Street which has four lanes of traffic. The exit drive will be limited to right turns out. Sections of curb will be added to the east and west of these drives to prevent any inappropriate vehicular movements into or out of the pre-existing driveways, and focus access and egress on the one-way circulation system. Easements will be required among the parties to effectuate the usage of the shared drive.

He reported that a landscape plan has been provided that includes ten new trees around the perimeter of the parking area, and four existing trees will be saved. A 6-foot high vinyl privacy fence will be installed around the perimeter of the parking area on the premises at 26 Centre Street wherever fencing does not already exist. Freestanding lighting fixtures for the parking lot will be limited to ten feet in height to minimize any excess lighting to abutting backyards.

He reported that the applicants propose to use pervious pavement in the parking lot on the premises at 26 Centre Street, but not the entry and exit drives or on the premises at 28 Centre Street. The snow storage area is designed with a bio-retention swale along the westerly edge of the parking area on the premises at 26 Centre Street.

He reported that the exterior renovation of the building at 26 Centre Street includes replacing the roof with asphalt shingles, replacing the windows and doors, painting the existing exterior siding; and construction of a handicapped access ramp. The details of these changes in terms of colors and materials have not been submitted or reviewed by the Design Review Committee. Sign applications have not been submitted at this time by 26 Centre Street LLC, and a separate sign application will be reviewed by the Design Review Committee and Planning Board at a later date.

Mr. Woodward explained that 26 Centre Street LLC proposes to convert the second story of the existing building at 26 Centre Street, which contains 1,099 square feet, to professional office use. This change of use is eligible for the assessment of an impact fee. However, the applicant receives a credit for the removal of the single family dwelling at

26 ½ Centre Street. The credit for the residential dwelling (\$1,767) exceeds the impact fee for the proposed new office use (\$1,725). Therefore, no impact fee will be charged.

He reported that the building at 28 Centre Street is to remain a two-family residential structure at the present time. However, parking is being provided to allow for the opportunity to convert the building in part or in whole to office use.

Timothy Golde from Golde Planning Consultants was present to answer questions on behalf of 26 Centre Street LLC.

Attorney Raymond D'Amante from D'Amante_Couser Steiner & Pellerin was present on behalf of Marian Sagona and noted that his client is in agreement with the plan as proposed.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 7:18 PM.

Deliberations and Action on Application

Mr. Gross moved that the Planning Board grant a Conditional Use Permit pursuant to Section 28-7-11(f), Driveway Separation Alternatives, of the City's Zoning Ordinance, finding that the reduction in the dimensions in order to allow the establishment of the access and egress driveways is the most minimal reduction which will still allow the access to be established while minimizing to the greatest extent possible the potential conflicts of turning movements into and out of the driveway with other turning and through traffic movements on the adjacent properties and the adjacent street. This CUP is granted specifically to allow for one way access/egress with two curb cuts, subject to the following conditions:

1. Granting of an easement by 26 Centre Street LLC to the owners of 65-69 North State Street to allow the use by the occupants of 65-69 North State Street of the proposed one way access and egress drives on the premises at 26 Centre Street,
2. An exchange of reciprocal easements between 26 Centre Street LLC and Marian N. Sagona to allow for 28 Centre Street to share in the use of the common access and egress drives.
3. The installation and removal of curbing along Centre Street so as to create two 20-foot curb cuts for these shared drives, and to eliminate all other existing curb cuts along the combined Centre Street frontage of 26 and 28 Centre Street and 65-69 North State Street.

Ms. Foss seconded. Motion carried.

Mr. Swope moved that the Planning Board grant a Conditional Use Permit pursuant to Section 28-7-11(a), Off-site Parking, of the City's Zoning Ordinance, to allow for a minimum of three and up to four parking spaces for 28 Centre Street to be located on the premises at 26 Centre Street, finding that the parking spaces are located within 500 feet of the principal use and in the same zoning district, the off-site parking is appropriate

for the characteristics and location of the use, and that the off-site parking can be provided without detriment to pedestrian and traffic safety. This Conditional Use Permit is granted subject to the parking spaces being permanently related to the principal use by easement or other recordable binding legal instrument.

Mr. Gross seconded. Motion carried.

Mr. Gross moved that the Planning Board table action on Architectural Design Review for the exterior improvements to the building at 26 Centre Street pending submittal of detailed information relative to the colors and materials, as well as details of the proposed handicapped ramp. Ms. Foss seconded. Motion carried.

Mr. Gross moved that the Planning Board grant conditional Architectural Design Review approval to the site and landscaping plans subject to the review and approval of the Design Review Committee. Mr. Swope seconded. Motion carried.

Ms. Foss moved that the Planning Board grant conditional site plan approval for the Minor Site Plan Application of Twenty-Six Centre Street, LLC and Marian N. Sagona at 26, 26 ½, and 28 Centre Street, as submitted by Goldë Planning and Design subject to the following standard and special conditions:

Standard Conditions:

1. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff.
2. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approvals shall be obtained for the construction drawings and specifications for all public and private improvements from the Engineering and Planning Division. No construction activity may commence prior to the preconstruction conference.
3. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following local approvals and permits shall be obtained and copies provided to the Planning Division:
 - a. A Driveway Alteration Permit from the Engineering Division
4. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant will provide to the City Solicitor a financial guarantee for all public improvements in an amount approved by the City Engineer, and in a form acceptable to the City Solicitor.

5. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, will be provided to the Planning Division:
 - a. An easement from 26 Centre Street LLC to the owners of 65-69 North State Street to allow the use by the occupants of 65-69 North State Street of the proposed one way access and egress drives on the premises at 26 Centre Street.
 - b. Reciprocal easements between 26 Centre Street LLC and Marian N. Sagona to allow for the occupants of 28 Centre Street to share in the use of the common access and egress drives on the premises at 26 Centre Street.
 - c. An easement, or other recordable binding legal instrument, for the use by the occupants of 28 Centre Street of a minimum of three and up to four parking spaces on the premises at 26 Centre Street.
6. Prior to the release of a financial guarantee for any public improvement, an as built plan shall be provided to the City Engineer in form and content acceptable to the City Engineer.
7. No certificate of occupancy for any building or use shall be issued until all improvements have been substantially completed to the satisfaction of the City Engineer.
8. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall obtain approval of private utility plans from Unitil, Fairpoint, and National Grid.

Special Conditions:

9. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), an application for the voluntary lot merger to combine parcels 47/7/10 and 47/7/14 shall be approved by the City and recorded at the Merrimack County Registry of Deeds.
10. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the site and landscaping plan shall be approved by the Design Review Committee.

Mr. Shurtleff seconded. Motion carried.

Major Site Plan Applications

2. Application by the **Duprey Acquisitions, LLC, on behalf of the City of Concord**, for a site plan of property located at **6 Theatre Street. (#2009-40)**

Public Hearing

Mr. Henninger explained this proposal to clear a wooded strip along the west side of Storrs Street and to construct 97 compact parking spaces for private use. The City Council has entered into an agreement with Duprey Acquisitions, LLC that would allow Duprey Acquisitions to purchase the parcels extending along the west side of Storrs Street from Theatre Street southerly to the curve of Storrs Street where it turns to meet South Main Street. An existing 24 car municipal parking lot is located at 6 Theatre Street and is included in the acquisition, resulting in a total of 121 private spaces proposed for this property. Two dumpsters and/or recycling containers are proposed on site as part of the Downtown Solid Waste District.

He reported that the applicant obtained variances from the Zoning Board of Adjustment to permit no less than a 4½ foot parking setback along of a portion of the westerly property line where a 5 foot setback is required, to permit no setback along the easterly property line adjacent to Storrs Street where a 10-foot setback is required along a collector street, to provide no parking lot perimeter landscaping along the easterly property line adjacent to Storrs Street where a 10 foot landscaping strip is required along a collector street, to allow not less than a 4½ foot landscaped strip along a portion of the westerly property line when a 5 foot landscaped strip is required, and to permit no interior parking lot landscaping when a minimum of 5 percent is required, and waive the requirement that no parking space is greater than 120 feet from a portion of such landscaped areas.

He reported that a waiver request to Section 8.07(c)(5)(d) of the City's Site Plan Review Regulations has been submitted to allow an aisle width of 18 feet where 20 feet is required.

He reported that two dumpsters/recycling containers are proposed to be added to the south end of the existing lot on Theatre Street to serve the Downtown Solid Waste District. The existing Theatre Street parking lot is at the south end of the Downtown Solid Waste District. Originally four dumpsters were proposed and the plan has now been reduced to two dumpsters after discussion with the City's General Services Department. The General Services Department is evaluating the dumpster location.

There are three ground water monitoring wells on site. They are being preserved but the rights by third parties to maintain and access these wells need to be addressed in the property transfer.

Mr. Henninger reported that the parking study submitted by the applicant for the Sanel Block office/housing project indicated a parking shortfall of 28-112 spaces for that project. This parking lot is intended to support this development and possibly another development. The parking study found no less than 147 unoccupied parking spaces within the primary study area.

He explained that a preliminary review of the plan indicated that the amount of runoff leaving the site would increase by 8,743 cubic feet in the 10 year storm and 9,502 cubic feet in a 25 year storm. The increase in the amount of runoff would be 13.5% for the 10 year storm and 11.4% for the 25 year storm. The applicant has indicated that infiltration of storm water runoff is not feasible due to the high water table and groundwater contamination of the site. The City's Engineering Division has confirmed this assumption and has advised that infiltration is not feasible on the northerly portion of the site due to high water table, and the infiltration is not recommended on the southerly portion of the site due to groundwater contamination from an upstream property. Without the ability to provide for groundwater infiltration and vegetated treatment swales, additional water quality mitigation to remove nitrogen, phosphates and other pollutants is not feasible. The City's Engineering Division has advised that the design is consistent with the NHDES Alteration of Terrain pretreatment component, with the exception of a bypass pipe for a large volume storm. The City has requested that the designer incorporate a bypass pipe for large volume storms to allow larger flows to flow directly into the detention basin. Studies have shown that the bulk of the sediments and pollutants are suspended in runoff during the first foot of runoff. Including the bypass pipe will allow the initial runoff additional time to settle sediments in the water quality inlets.

Mr. Henninger reported that the Architectural Design Review Committee had reviewed the site and landscape plan, and had noted that this parking lot is not consistent with the City's adopted plans for downtown and the Opportunity Corridor and could impede the redevelopment of properties to the west along South Main Street. After a lengthy discussion, the Design Review Committee recommended approval of the plan subject to further review of the fencing and screening for the dumpsters, and further review of the planting plan by the City's landscape architect.

He reported that the applicant has indicated that he would provide an acceptable dumpster screen in lieu of the originally proposed wooden stockade fencing and that he would provide a detail of the screen fence proposed at the top of the retaining wall. The applicant proposes about 145 feet of retaining wall along the westerly property line. The Design Review Committee and staff have recommended that the face of the wall should appear to be made up of smaller blocks similar to those installed last year on Garrison Street.

He reported that the clear cutting of the property along Storrs Street will open up the view to the rear of the buildings along South Main Street which, at best, are less than attractive. The landscape plan should function to screen this property from view rather than exposing this area to prominence along Storrs Street. The Planning Division is concerned that the proposed plantings behind the properties at 67 and 71 -79 South Main Street may not be tall enough to break up the expanse of the building and to provide screening for the least attractive elements at the rear of the buildings, including dumpsters. Staff has recommended that additional evergreen trees and several shade trees be added at this location.

He explained that a significant number of the landscape buffer plantings are to be planted on the abutting properties due to grade and to have enough space for the plants to grow. The buildings to the west will be 8-10 feet above the elevation of the parking lot. The applicant will need a formal agreement with the property owner(s) to install and maintain the buffer plantings.

He explained that the Opportunity Corridor Plan called for the enhancement of Storrs Street as a boulevard, and this gateway area is specifically called out for enhancement in the plan. He reported that City staff has made a number of recommendations regarding the landscape plan including that a third specie of shade tree be provided along Storrs Street to avoid a complete loss of street cover between the two entrance drives if one specie is attacked by disease, and the mix of shade trees should be diversified to include a mixture of shade trees including Ash, Oak and Maple and Lindens. Staff has also recommended six additional trees be placed between the two driveways to reduce the overall spacing between street trees to 30 feet from Theatre Street southerly to the southern driveway and to enhance the boulevard effect. Along the westerly property line the applicant should reduce the number of shrubs and provide 8-10 shade trees in their place. The evergreen trees proposed along the west property line should be replaced with faster growing evergreen trees such as White Pine or Austrian Pine. The proposed shrubs should be substituted with native species hardy to Zone 4.

Mr. Henninger reported that the Planning Board had received a letter from the Capitol Center for the Arts in support of the redevelopment of the Sanel Block, including the parking lot along Storrs Street as this project will dramatically improve the streetscape and bring at least 200 workers to the neighborhood. This project will also provide the opportunity to have 92 additional parking spaces in the evening for use by their patrons ,and should relieve pressure on the side streets surrounding the Capitol Center for the Arts.

Mr. Gross referred to an email from Planning Board Member Meyer who could not attend this evening's meeting. He asked for staff response to the concerns she had expressed relative to the planting plans, including tree selection, hardiness and variety of plant materials, and the color and materials of the proposed retaining wall. The Chair noted that some of the comments relative to landscaping had already been addressed by the applicant.

Mr. Gross asked why there is so much groundwater contamination at that site. Mr. Henninger responded that staff feels the contamination is related to a former gas station abutting the property.

Ms. Foss noted that there was a project completed twenty years ago to improve aesthetics and adapt the site for storm water treatment, and reported that she was troubled by the precedent of converting an area, in which there was some public investment to improve the storm water system, into an area of impervious surface.

Stephen Duprey was present as applicant along with Dana Adams from Opechee Construction Management and Matthew Walsh, the City's Assistant for Special Projects.

Mr. Walsh explained that the City Council had approved an agreement with Mr. Duprey that included leasing parking spaces, tax credits, and the sale of this property. He explained some of the restrictions the City has placed on this transaction to provide for the long-term interest in downtown development. He explained that there was a clause included in the agreement that if the City needed this property for another redevelopment project it could be returned to the City, provided that an equal amount parking is offered to the applicant. The City has also retained air rights over this property.

Mr. Duprey explained the necessity for the parking lot. This lot will provide sufficient parking, along with spaces to be leased at the Capitol Commons parking garage, to satisfy the project's lenders. The Sanel Block project was rezoned to the Central Business Performance District which does not require any on-site parking. They are leasing 150 spaces in the Capitol Commons parking garage which is all that is available for lease at this time. The lenders required that sufficient and dedicated parking be provided for the life of the loan. He explained that the lenders believe that downtown is competing directly with suburban sites that have ample parking. He recommended that office uses not be allowed in the Industrial Districts if the community wants to see more development and redevelopment in the downtown. He noted that he could buy a vacant office building on Chenell Drive and create the same amount of office space as the Sanel Block for less money.

He reported that they had agreed to all of the recommendations made by the City's landscape architect.

Mr. Adams indicated they will work with staff on revisions landscape plan and drainage plan.

Ms. Foss asked if lenders take into account the availability of public transportation in their parking demands. Mr. Duprey responded that they do not. Transit related development is not something to which lenders have given any thought.

Mr. Swope was concerned that the backs of the buildings on South Main Street needed to be well shielded so he agreed that shrubs might be more effective in screening.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 8:29 PM.

Deliberations and Action on Application Deliberations and Action on Architectural Design Review

Mr. Swope moved that the Planning Board grant Architectural Design Review approval for a parking lot and the installation of solid waste containers at 7 Theatre Street and along Storrs Street southerly of Theatre Street, as proposed by the City of Concord and Duprey Acquisitions, LLC, subject to revisions to the satisfaction of the City Planner of

the design and layout of the retaining wall, lighting, screen fencing, dumpster screens and landscape plan. Mr. Shurtleff seconded. Motion carried.

Mr. Gross moved that the Planning Board grant a waiver to Section 8.07(c)(5)(d) of the City's Site Plan Review Regulations to allow an aisle width of 18 feet where 20 feet is required. Mr. Swope seconded. Motion carried.

Mr. Gross moved that the Planning Board grant conditional site plan approval for a parking lot and the installation of solid waste containers at 7 Theatre Street and along Storrs Street southerly of Theatre Street, as proposed by the City of Concord and Duprey Acquisitions, LLC, subject to the following standard and special conditions:

Standard Conditions

1. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approvals of construction drawings for on-site improvements shall be obtained from the Engineering and Planning Divisions. No construction activity may commence prior to the preconstruction conference.
2. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant will provide to the City Solicitor a financial guarantee for all public improvements in an amount approved by the City Engineer and in a form acceptable to the City Solicitor.
3. No certificate of occupancy for any building or use shall be issued until all public improvements have been substantially completed to the satisfaction of the City Engineer.
4. Prior to the release of a financial guarantee for any public improvement, an as-built plan shall be provided to the City Engineer in a form and content acceptable to the City Engineer.
5. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following local approvals and permits shall be obtained and copies provided to the Planning Division:
 - a. Driveway Alteration Permit from the Engineering Division
6. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, will be provided to the Planning Division.

- a. An agreement or easement to allow Duprey Acquisitions to install landscaping on property located at 67 South Main Street (parcel 34-5-7) and 71-79 South Main Street (parcel 34-5-9).
- b. Appropriate legal means to ensure the continued use and access to the three ground water monitoring wells on site.

Special Conditions

7. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall revise the landscape plan to the satisfaction of the City Planner.
8. Prior to the completion of construction, the City Planner shall review the completed landscape plan and may require additional plantings be installed to better screen mechanical equipment, parking and dumpsters to the rear of 67 South Main Street and 71-79 south Main Street.
9. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall revise the drainage plans acceptable to the City Engineering Division.

Mr. Swope felt that while this project did not do much to enhance the idea of Storrs Street as a boulevard, it was offset by the related improvement of the Sanel Block.

Mr. Gross was satisfied that they are dealing with drainage issues but he was still concerned about the aesthetics of the proposal. However, the developer's testimony this evening indicated he would be working with staff regarding landscaping and aesthetics and he felt confident that staff would demand an attractive project.

Motion carried.

Architectural Design Review

3. Applications by the following for approval of signs at the following locations under the provisions of Section 28-9-4(f), Architectural Design Review, of the Code of Ordinances.
 - **Checkmate Pizza** at 41 Washington Street (2 affixed signs)
 - **Old Europe Restaurant** at 76 N. Main Street (1 hanging sign & 1 affixed sign)
 - **Outfitters Thrift Shop** at 5 Market Lane (1 hanging sign & 1 affixed sign)
 - **Revolution Cyclery** at 24 Pleasant Street (1 hanging sign)

The Chair opened the hearings on all of the above sign applications.

- **Checkmate Pizza** at 41 Washington Street (2 affixed signs)

There was no one present on behalf of the applicant.

Mr. Henninger explained that the owner of the business had discussed revisions to the application with the Design Review Committee and will return with a final design for the January meeting.

Mr. Gross moved to table action on this application to allow the applicant an opportunity to present an updated design for review. Mr. Swope seconded. Motion carried.

- **Old Europe Restaurant** at 76 N. Main Street (1 hanging sign & 1 affixed sign)

Mr. Henninger explained this proposal for replacement panels in two existing internally illuminated signs for a new use. While the graphics on the sign are attractive, the Design Review Committee objected to the size, the internal illumination of the sign, and the bright white material of the background. Members were of the opinion that the signage was not in keeping with the increase in quality of signage and facades of the abutting properties like "Butters" and "Things Are Cooking". They felt there were some things the applicants could do in terms of color and illumination that would make it much more attractive. The overall graphic presentation was not indicative of what appears to be happening inside.

He reported Committee members had noted that there is grant money available for upgrading signage and facades, and the applicants should be made aware of that resource.

Greg Salazar from Saymore Trophies was present on behalf of the applicant and explained that the applicant does not have the funding to replace the existing box frames. He reported the applicant hoped to open next month and anything that prolongs the installation of the sign will have a negative effect on them.

In answer to a question by the Chair, Mr. Henninger explained that most of the signs in that area are not lighted. Some of the signs have external gooseneck fixtures that provide indirect lighting.

Mr. Salazar explained that the applicant felt they had bought the ability to light their sign when they bought the building. They felt the lighting would benefit them and would not be offensive to people passing by.

The Chair felt the nature of the white background of the panel would make the sign brighter than anything else around it.

Mr. Gross asked the material of the panel and Mr. Salazar responded it is lexan, a plastic material. Mr. Gross asked if there would be a problem with toning down the white since they will be creating a new panel anyway.

Mr. Salazar compared the proposed sign to the existing signage. He explained the business owner hopes to someday replace the sign. He feels this is a step in the right direction.

Ms. Foss noted that the new sign advertising only one business and the graphics are a significant improvement over the existing signage. She thought that it was possible the reality of the white background would be less dramatic than what is shown in the printed proposal.

Ms. Foss moved approval as submitted and Mr. Shurtleff seconded. Motion carried.

- **Outfitters Thrift Shop** at 5 Market Lane (1 hanging sign & 1 affixed sign)

There was no one present on behalf of the applicant.

Mr. Henninger reported that the Design Review Committee found the design and placement of the sign to be appropriate for the location and use, and recommended approval subject to the background color being a cool gray or light cream.

Mr. Woodward asked if the Design Review Committee had noticed that this sign is hanging five feet out over Odd Fellows Avenue and the photosimulation showed the sign placed right in front of the globe style post lighting recently installed in Bicentennial Square. Mr. Henninger responded that there is landscaping that effectively sets this area apart from vehicles so it seems to be protected from traffic. It is also high enough to not conflict with pedestrians.

Mr. Gross moved approval of the affixed sign with an off-white or gray background, and approval of the hanging sign subject to the condition that staff reviews with the applicant the placement of the sign so as to not interfere with public lighting or delivery truck access, and size and shape of the sign being consistent with the neighborhood. Mr. Shurtleff seconded. Motion carried, 5-1, with Mr. Swope voting against the motion.

- **Revolution Cyclery** at 24 Pleasant Street (1 hanging sign)

There was no one present on behalf of the applicant.

Mr. Henninger reported that the Design Review Committee found the design to be creative and playful. The Committee found the design and placement of the sign to be appropriate for the location and use, and recommended approval as submitted.

Mr. Swope moved approval as submitted and Mr. Shurtleff seconded. Motion carried.

REGULAR MEETING

Minutes

Mr. Shurtleff moved approval of the minutes of the meeting of November 18, 2009, as submitted and Mr. Hicks seconded. Motion carried.

New Business

5. Presentation on a **Bicycle Master Plan** process for Concord by the Central New Hampshire Regional Planning Commission.

The Chair introduced Craig Tufts and Nick Coates from Central New Hampshire Regional Planning Commission, and Pete Rhodes from TPAC, who have been working on a Bicycle Master Plan for the City.

Mr. Coates explained that they received a grant from Concord 2020 to begin work on this project. He explained the proposal to prepare a Bicycle Master Plan for the City in order to build on the City's bicycle-related components in the 2030 Master Plan. The Transportation Chapter of the current Master Plan addresses the role of bicycling in Concord but does not provide the detail that a bicycle-specific plan can have. This Bicycle Master Plan intends to take the spirit and intent of the Master Plan and other planning documents to create a more in-depth and bicycling-specific plan, and to help bring forward implementation and action items to make Concord a more bicycle friendly city.

Mr. Coates explained that they had held their first meeting recently for public input and got a lot of good comments that are being compiled and will be made available soon. The next meeting will likely be in the Spring.

Mr. Gross discussed the feeling of safety and security that needed to be felt by bicyclists.

Mr. Hicks felt this was a project that was long overdue. He felt there was a cultural shift taking place in the city. People do not know how to drive with bicyclists here in the city. There is a lot of education that needs to happen, both with bicyclists and with motorists and pedestrians.

Mr. Gross noted that there is a lot of conflict between pedestrians and bicyclists and that is partly the result of a lack of education for new bicyclists. He indicated many bicyclists are not aware that the State considers bicycles to be vehicles.

Board members asked to be kept informed of the group's progress.

Mr. Henninger explained that in the past the Planning Board has adopted supplemental studies to the Master Plan and suggested that this may be an appropriate inclusion in the current Master Plan.

6. Consideration of a review of a **Development of Regional Impact on Route 106 in Loudon (NH Motor Speedway)**.

Mr. Henninger explained the application of the New Hampshire Motor Speedway for a

Change of Use and an amendment to previously approved Site Plan application. As a condition of the 1999 Site Plan approval, the Loudon Planning Board prohibited the use of the speedway between October 31st and April 1st. The current request involves changing this condition to allow the speedway to host a snowmobile event on February 20-21, 2010 between the hours of 9:00 am and 4:00 pm. The estimated daily attendance at the event would be approximately 5,000 people.

He reported that the proposed size of the event and its timing on a February weekend should not present any extraordinary traffic impacts on streets and highways in Concord. If the event is successful and grows substantially over time, traffic management on Route 106, I-393 and I-93 may need to be implemented in a manner similar to major racing events.

Ms. Foss asked whether the Speedway was on a major snowmobile route. She felt that would make a difference as to whether people would ride snowmobiles to the event or bring them in by trailer.

Mr. Gross moved that the Planning Board forward the Board's comments to the Loudon Planning Board as follows:

1. The proposed size of the event and its timing on a February weekend should not present any extraordinary traffic impacts on streets and highways in Concord. If the event is successful, and grows substantially over time, traffic management on Rte 106, I-393 and I-93 may need to be implemented in a manner similar to major racing events.
2. The Planning Board recommends the Speedway contact Concord Police Department to make them aware of the event and its potential to increase snowmobile traffic on the trails throughout Concord.

Mr. Shurtleff seconded. Motion carried.

Mr. Gross also asked that the communication to the Loudon Planning Board clearly note that the Planning Board is appreciative of the fact that the Town of Loudon is concerned about the potential regional impacts of this proposal.

7. Consideration of the Annual Review of the **Public Capital Facilities Impact Fee Ordinance**

Mr. Woodward explained that the current Public Capital Facilities Impact Fee Ordinance was adopted in June 2001, and contains a requirement that the impact fee tables be reviewed periodically by the Planning Board and revised by the City Council whenever appropriate. It requires a report by the Board each year to the City Council including recommendations for appropriate adjustments to the impact fee tables, if any. Specific sources of cost data and information for updating the fees are cited in the ordinance.

He reported that after the annual review for calendar year 2008, the Planning Board voted unanimously to forward to the City Council an ordinance amending the Public Capital Facilities Impact Fee Ordinance, reflecting an updated schedule of fees, but recommended that the increased fees not be adopted in recognition of the economic downturn that had occurred since the indices were derived. The City Council subsequently concurred with that recommendation and did not amend the fee schedules.

He presented Tables 1, 2, and 3 containing current as well as proposed new fee schedules for the School, Recreation, and Transportation Facilities Impact Fees. These schedules were developed using the noted data source and the indicated inflationary increase since the base year fees were adopted. He also presented a draft ordinance which would implement these fee schedules. He explained that the proposed fees reflected the cumulative change in the indices over the two year period since the fees were last amended, and the indices for the most recent year clearly recognize the effects of the economic downturn. The schedule for Transportation Impact Fees also contains a correction of the fee for the category "Bank with drive up facilities" which had been incorrectly entered and adopted in the last amendment to the schedules.

Mr. Swope asked if other municipalities had been raising their fees or if they had been held stable. Mr. Woodward responded that he did not know what other communities had done since each community addressed impacts differently.

Mr. Gross moved to forward to the City Council the amendment of the impact fee tables for Chapter 29.2, Public Capital Facilities Impact Fee Ordinance, to reflect an adjusted schedule of fees with the Planning Board's recommendation that the City Council consider the changes included and take whatever action they deem appropriate. Mr. Hicks seconded. Motion carried.

8. Consideration of appointments to the **Architectural Design Review Committee**.

Mr. Woodward brought forward the matter of the re-appointment of current Design Review Committee members James (Jay) P. Doherty III and Frederick L. Richards. He reported that their terms were to expire at the end of the calendar year, and that they each had indicated a willingness to continue to serve on the Committee.

Mr. Woodward reported that the Planning Board voted to establish the Design Review Committee in 1978, and in 1990 adopted an amendment to the Site Plan Review Regulations which specified that the Committee should consist of at least five and no more than seven members with training or experience in architectural design, landscape architecture, or historic preservation. The terms of membership are the same as those for Planning Board members which is three years, and the members must be local residents.

He reported that Mr. Doherty volunteered for membership on the Design Review Committee in 2006, and was appointed shortly thereafter. He resides in the North End and holds a Bachelor and Masters Degree in Architecture from Norwich University. He

has been with the H.L. Turner Group Inc. in Concord since 1999 and is currently a Senior Architectural Designer.

Mr. Richards was first appointed to the Design Review Committee in 2006. He resides on Warren Street and holds a Masters Degree in Historic Preservation from the University of Pennsylvania. While in recent years he has been engaged in the field of commercial real estate appraisal, he has held the position of preservation planner with several planning and architectural design firms during his career.

Mr. Swope moved that the Planning Board re-appoint James (Jay) P. Doherty III and Frederick L. Richards to the Design Review Committee. Mr. Gross seconded. Motion carried.

Old Business

9. Further consideration of a review of **a Development of Regional Impact on North Pembroke Road in Pembroke** across from the City's wellfield (**Silver Hills Business Park**).

Mr. Woodward reported that the Board had discussed this application and the Pembroke Planning Board's invitation to attend a meeting where this matter would be discussed. While the Board felt that their concerns had been conveyed to Pembroke in previous communications, the Board concluded that it might be appropriate to convey to the Pembroke Planning Board what the Concord Planning Board would like to see happen as part of the action on this application. Therefore, the Concord Planning Board voted to request that the Pembroke Planning Board consider imposing either of the following conditions on any approval of the Silver Hills Business Park Subdivision:

1. Impose such requirements as would otherwise be imposed if this subdivision were within a well head protection area of one of the Town of Pembroke's public water supply wells; or
2. Impose a set of covenants similar to those imposed by the Concord Planning Board on the Capital Regional Development Council subdivision in Concord which was located within the Pembroke well head protection area.

He reported that the Chair, City Planner, and Deputy Director of General Services attended the November 24, 2009 meeting of the Pembroke Planning Board and testified to the Pembroke Board on the application. The Pembroke Board discussed the extension of the provisions of its Aquifer Protection District to the land in Concord's Well Head Protection Area as defined by NHDES. The Pembroke Board also considered the restrictions as contained in the covenant utilized in Concord on the Henniker Street subdivision, and tentatively agreed on a selection of these provisions to be imposed on the Silver Hills application through annotation of the plat, and subsequent consideration of site plan applications for lots in the subdivision.

He explained that the applicant presented a plan with what they had interpreted as the extent of the Concord Well Head Protection Area. Subsequently, the NHDES provided

to the City a GIS file with the official limits of the Well Head Protection Area which revealed that the applicant's interpretation was a reasonable approximation. One area inside the Well Head Protection Area was proposed to be re-graded and the applicant suggested that that area not be subject to the restriction. However, NHDES advised that the Well Head Protection Area reflects the limits of where groundwater can be drawn to the wells when they are being pumped, and that a spill even on a re-graded area can still percolate into the groundwater.

He reported that the Silver Hills application will be further considered by the Pembroke Planning Board on January 26, 2010.

The Board agreed to forward this record of their discussion together with the NHDES Well Head Protection Area map; to indicate to the Pembroke Board that the approach of using the restrictions of the Pembroke Aquifer Protection District as augmented by selected restrictions from the Concord covenant is considered to be a reasonable approach to protecting the Concord well field; and to further indicate that these restrictions should apply to that portion of the Silver Hills site which lies within the designated WHPA for the Concord well field. The Board also expressed its appreciation to the Pembroke Board for its efforts to accommodate the City's concerns.

10. Further consideration of a review of **a Development of Regional Impact in Pembroke** adjacent to the City's wellfield (**Concord Sand and Gravel Excavation Expansion**).

Mr. Woodward explained that the Planning Board had also considered a Development of Regional Impact, the notice for which had been received from the Pembroke Planning Board together with an invitation to attend the Pembroke Board's meeting at which this matter would be considered. The DRI related to an expansion of an excavation by Concord Sand and Gravel Company on land northerly of North Pembroke Road adjacent to the City's well field and the Soucook River. It was noted that access and egress to and from the excavation site in Pembroke are via a private bridge over the Soucook River and through the inactive gravel pit also owned by Concord Sand and Gravel in Concord. The haul road then accesses Route 106 in Concord just south of the Loudon Road intersection.

The current application in Pembroke is being regulated by the Town as an expansion of an existing excavation, and the focus is on an area of 17 acres to the east of previous areas of excavation, and further from the City's well field. The life expectancy of the operation may range up to 100 years. The Pembroke excavation has been depleted in the area closest to the City's well field, and that area has been partially reclaimed. The applicants have proposed to install monitoring wells between the new excavation area and the well field. The applicants have noted that the City's well field has sustained no adverse impacts from the excavation to date.

With regard to the well field, the City's General Services Department, which operates the Concord water system, had requested that an outside expert be retained to review

the potential impact of the excavation on the City's well field. It was noted that the Town of Pembroke had indicated in its letter that it was open to such a request.

At the November 18, 2009 meeting, the Board had voted to request that the Pembroke Planning Board consider a requirement for the retention of a consultant at the applicant's expense to review the plans and studies as submitted by the applicant as it relates to the impact on the City of Concord's well fields on North Pembroke Road. The Board also wanted to make the Pembroke Board aware that the access to the operations of Concord Sand and Gravel Inc. on Route 106 may be restricted by NHDOT in the future to a right turn in and out, which may create a need for the empty trucks to return to the site via North Pembroke Road.

Mr. Woodward reported that the Chair, City Planner, and Deputy Director of General Services attended the November 24, 2009 meeting of the Pembroke Planning Board and testified to the Pembroke Board on this application. He further reported that the Pembroke Planning Board did agree to require that a consultant be retained at the applicant's expense. The consultant will actually be under contract to the Town as they will maintain the escrow account, but the consultant will be reviewing the site, the application, and the proposed mitigation measures in relation to the impact on the City's well field, and will offer recommendations as may be necessary. The contract is now before the Board of Selectmen, and the application is scheduled for further consideration by the Pembroke Board on January 26, 2010. It was agreed that the Clerk would provide an update at the regular meeting on January 20, 2010, and if the consultant's report is ready by then, it will be provided to the Board.

INFORMATION

Litigation Update

- Copy of *Daniel C. Afflick v. City of Concord and Concord Planning Board*, filed on December 4, 2009 in Merrimack County Superior Court, with regard to the waiver granted on November 4, 2009 to Parmenter Road Development, LLC on behalf of Judith & Emmanuel T. Brochu, Jr. for a retroactive extension of the period of validity of the major subdivision at 8 Parmenter Road.

Mr. Woodward reported that an appeal had been filed at the very last minute. There have been several filings by the City and the applicant's attorneys requesting an expedited hearing and a dismissal of the matter.

- A submittal to the US District Court for the District of New Hampshire is pending on a Stipulation for a Voluntary Dismissal in the matter of *US Cellular v. City of Concord, New Hampshire*, with regard to the denial of a Conditional Use Permit by the Planning Board for a wireless telecommunications equipment on June 22, 2005.

Mr. Woodward explained that US Cellular sought and recently received approval for the installation of an antenna on top of the Blue Seal Feeds building in Bow. This will likely

lead to withdrawal of the litigation against the Board as the new antenna will serve the same area as the wireless telecommunication tower proposed in 2005 by US Cellular in Concord which was denied by the Board.

AGENDA ADDENDUM

New Business

1. Consideration of **amendments** to the **Subdivision Regulations** and the **Site Plan Review Regulations** relative to **tabled and postponed applications**.

Mr. Woodward explained that the current Subdivision and Site Plan Review Regulations only address a period of validity for applications once conditional approval has been granted, and they also impose limits on how long the Board can consider an application prior to rendering a decision. However, there are a number of applications which have accumulated over time wherein the applicants have submitted an application and it has been tabled pending submittal of additional information or the applicant has requested postponement of consideration of the application. A few of these applications have languished for extended periods of time and there is no specific section of the regulations which addresses these circumstances so as to bring closure to these applications.

He reported that the Planning Division proposes that the Board adopt a one year limit to any period of inaction on an application due to tabling or postponement, wherein the applicant does not seek further action from the Board. In this case, it is proposed that the application automatically lapse after a period of one year, and that the applicant must resubmit the application and a new fee if they wish to resurrect the application in the future.

He further suggested that the effective date be 90 days after adoption instead of immediately after the vote in order to notify those applicants whose projects these amendments would affect if adopted and give them an opportunity to update their application.

Mr. Gross moved that the Planning Board schedule a public hearing on January 20, 2010, on these amendments to both the Subdivision Regulations and the Site Plan Review Regulations with the effective date 90 days subsequent to the adoption. Mr. Swope seconded. Motion carried.

2. Consideration of an **amendment** to the **Rules of the Planning Board** relative to **disqualification** of a member from a hearing or decision.

Mr. Woodward explained that City staff has proposed an amendment to Article IV, Meetings and Conduct of Business, of the Rules of the Planning Board, to incorporate the language from RSA 673:14, Disqualification of Member, which requires Planning Board members to adhere to a juror standard in considering a matter in a judicial capacity (i.e. voting on a subdivision or site plan application).

It was recommended that the Rules of the Planning Board be amended to add the sentence, "No member shall participate in a hearing or decision on any question for which the Planning Board must make a decision in a judicial capacity if that member would be disqualified for any cause to act as a juror in a trial of the same matter in any action at law", and the phrase, "disqualified by the juror standard".

Mr. Gross observed that the recommended language seemed to go further than the State statutes on this matter. It was suggested that a phrase be added to clarify the intent as follows: "Any factor which would prevent the member from making an impartial decision based on the facts of the case".

Board members suggested that the proposed amendment to the Rules of the Planning Board, as revised, be set for public hearing on January 20, 2010.

INFORMATION

- Memorandum relative to Land Use Regulatory Changes for the Implementation for the Master Plan 2030

In anticipation of the Concord 2020 process for compiling ideas for land use regulatory changes, Mr. Woodward provided a memorandum containing a brief summary of the land use related recommendations from the Master Plan 2030, together with a review of the status of those recommended actions that have been initiated.

There was no further business to come before the Board and the meeting adjourned at 10:03 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward
Clerk

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